

briefly and in plain language the facts upon which it is based. It should include specific reference to pertinent statutory provisions and Commission regulations, and should advise the Commission and the defendant fully in what respects these provisions or regulations have been or are violated or will be violated. The complaint should contain a detailed statement of the relief requested. Relief in the alternative or of several different types may be demanded, but the issues raised in the formal complaint should not be broader than those to which complainant's evidence is to be directed at the hearing.

(b) *Requests for oral hearing.* A formal complaint should include a request that the proceeding be handled either under the modified procedure or at oral hearing, and a request for oral hearing should include at least two alternative hearing sites.

#### **§ 1131.2 When damages sought.**

(a) *Content.* A formal complaint that includes a request for an award of damages should set forth the information required to be contained in an informal complaint seeking damages (§ 1130.2(b) and (c)).

(b) *Specific request for damages.* Except under unusual circumstances, and for good cause shown, damages will not be awarded upon a complaint unless specifically requested or upon a new complaint by or for the same complainant which is based upon any finding in the original proceeding.

(49 U.S.C. 10321; 5 U.S.C. 553)

[47 FR 49572, Nov. 1, 1982, as amended at 48 FR 44827, Sept. 30, 1983]

#### **§ 1131.3 [Reserved]**

#### **§ 1131.4 Railroad allegations of unlawful intrastate rates.**

(a) *Actions under 49 U.S.C. 11501(c).* A rail carrier may file a petition with the Commission to review the decision of any certified State authority in any administrative proceeding in which the lawfulness of an intrastate rate, classification, rule, or practice is determined. The petition must show in what way the standards and procedures applied by the State were not in accordance with Subtitle IV of Title 49 of the United States Code, and it must be

served on the State authority and all parties to the proceedings before the State authority consistent with § 1104.12. Replies must be filed within 10 days after a carrier petition is filed, and must also be served. The Commission will act on the petition within 30 days.

(b) *Actions under 49 U.S.C. 11501(d).* A rail carrier may file an application with the Commission to prescribe an intrastate rate if the appropriate State authority fails to act within 120 days after the rail carrier filed with it a change in an intrastate rate, or a change in a classification, rule or practice that has the effect of changing an intrastate rate, to the level charged on similar traffic moving in interstate or foreign commerce. The application must include a copy of the change as filed with the State authority, the comparable interstate rate items, and a showing that the State authority failed to act within 120 days. The petition must be served on the State authority and all parties to the proceeding before the State authority consistent with § 1104.12.

#### **§ 1131.5 Other specifications.**

(a) *Tariff or schedule references.* A formal complaint that brings in issue any rate, fare, charge, schedule, classification, regulation or practice should specifically identify the pertinent tariff or schedule.

(b) *References to States in which transportation occurs.* A formal complaint under subchapter II of chapter 105 of 49 U.S.C. should specifically name the States in and through which the transportation which gives rise to the complaint is performed.

#### **§ 1131.6 Multiple causes of action; joinder.**

(a) *Multiple causes of action.* Two or more grounds of complaint concerning the same principle, subject, or facts may be included in one complaint, but should be stated and numbered separately.

(b) *Multiple complainants.* Two or more complainants may join in one complaint against one or more defendants if their respective causes of action concern substantially the same alleged violation of the Act and like facts.